

Application No.: 10/735,588
Filing Date: December 12, 2003

REMARKS

The following remarks are responsive to the December 26, 2008 Office Action. Applicants respectfully request Examiner to reconsider the application in view of the foregoing amendments and the following remarks.

Summary of the Office Action

In the December 26, 2008 Office Action, Claims 1-4, 9-11, 13-15, 21-27 and 53 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,676,626 issued to Bennett. Claims 1-4, 9-14, 21-37 and 44-52 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,715,825 issued to Crowley. Claims 15, 38, 39 and 53 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Crowley in view of U.S. Patent No. 4,947,852 issued to Nassi. Claims 40-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Crowley in view of U.S. Patent No. 4,699,150 issued to Kawabuchi.

Terminal Disclaimer Under 37 C.F.R. § 1.321

In response to Examiner's rejection, Applicants have submitted a terminal disclaimer along with this communication to overcome the rejection.

Traversal of Rejection Under 35 U.S.C. § 102(e)

Applicants respectfully assert that Crowley does not disclose each and every element of independent Claims 1 and 28. Specifically, the "first sheath portion" and the "second sheath portion" disclosed in Crowley bear no resemblance to the first and second medium elements in Claims 1 and 28. However, Examiner states that "it is inherent that the first sheath in Crowley corresponds to the first medium which is more flexible than the second sheath or second medium which is thicker walled and necessarily harder than the first sheath." Office Action P. 3. Applicants respectfully disagree with Examiner's characterization and suggest that Examiner is misunderstanding the invention disclosed in the present application.

Referring to Fig. 10D in the present application, the first and second medium elements in Claims 1 and 28 are specified by elements 42B and 42A respectively. See Application ¶¶ 0113,

0114. As depicted in Fig. 10D, the first medium 42B is adjacent to the first end 26 of the ultrasound transducer, and the second medium 42A is adjacent to the external side 22 of the ultrasound transducer. See Application ¶¶ 0007, 0012, 0063, 0093, 0113, 0114.

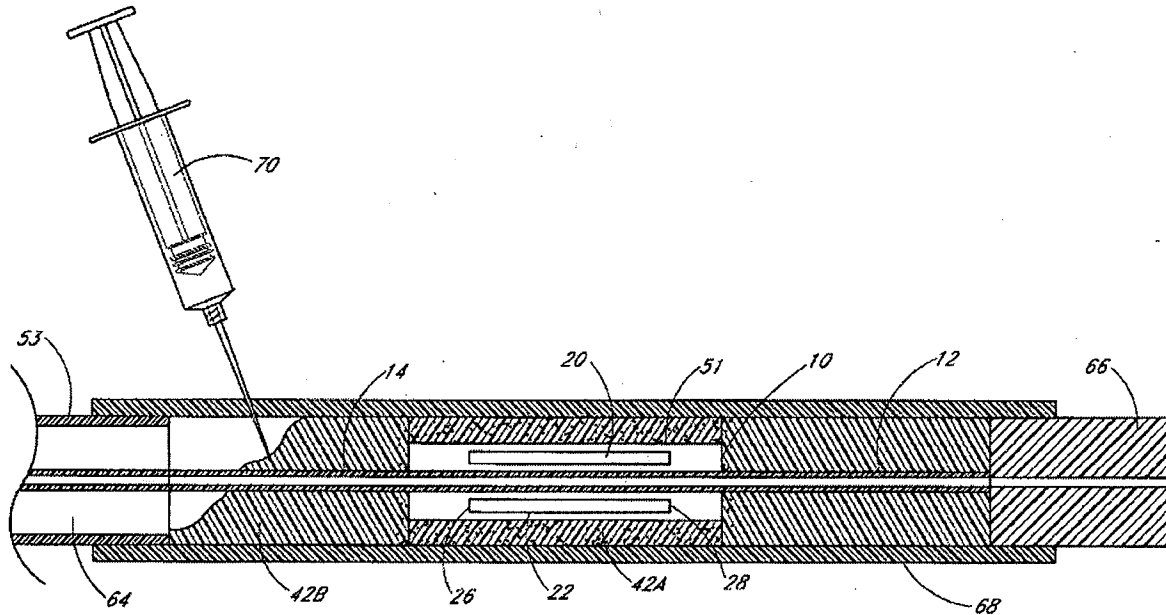


FIG. 10D

In contrast, the first and second sheath disclosed in Crowley are represented in Fig. 4 as elements 12 and 29 respectively. See Crowley, col. 7, ll. 30-44; col. 10, ll. 8-18; col. 11, ll. 28-31. First, the two sheaths disclosed in Crowley are not the same or equivalent to the two mediums claimed in Claims 1 and 28. The sheaths disclosed in Crowley are merely sheaths, specifically, a "catheter sheath 12" and a "tubular sleeve 29". Crowley, col. 10, l. 11; col. 11, l. 30. In contrast, the two mediums claimed in Claims 1 and 28 are not sheaths, but they are "binding mediums". See Application ¶¶ 0007, 0012, 0063, 0093, 0113, 0114. The sheaths in Crowley do not resemble mediums, nor do they function as mediums.

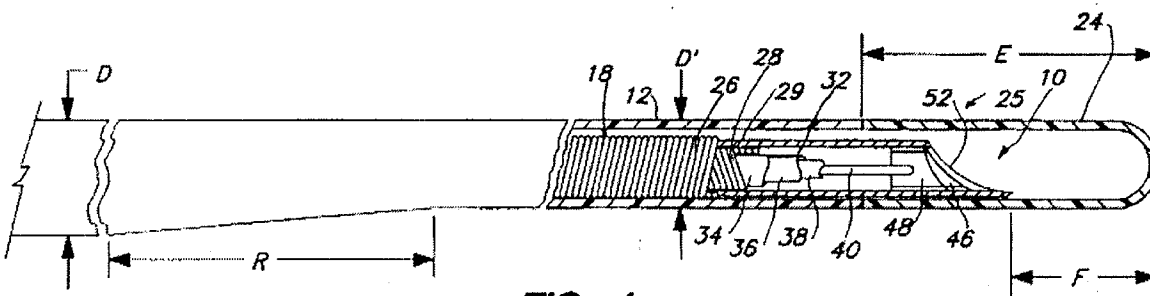


FIG. 4

Second, the two sheaths disclosed in Crowley are not positioned or configured in the same manner as the two medium elements claimed in Claims 1 and 28. Referring to Fig. 4 in Crowley, the first sheath may be arguably disposed adjacent to the external surface of the ultrasound transducer. However, the second sheath is disposed in the same manner, adjacent to the external surface of the ultrasound transducer. As seen in Fig. 10D of the present application, it can be seen that the two mediums are positioned distinctly in relation to the ultrasound transducer. That is, the first medium is adjacent to the first end of the ultrasound transducer, and the second medium is adjacent to the external side of the ultrasound transducer.

Third, Applicants respectfully assert that it is improper to characterize a sheath as a medium. For instance, the present invention also includes a sheath, which is distinct from the two medium elements claimed in Claims 1 and 28. As seen in Fig. 10D, the catheter sheath is represented by element 68. *See* Application ¶ 0111. Applicants assert that Examiner's rejection is based solely on the contention that a catheter sheath is the same as a medium. This simply does not make sense.

Therefore, Applicants respectfully request that Examiner withdraw the rejection of Claims 1 and 28 and indicate that these claims are allowable over the prior art.

With regards to Claims 2-4, 9-14, 21-27, 29-37 and 44-52, Applicants assert that these claims depend from allowable base Claim 1 or 28. Applicants assert Crowley does not teach or disclose each and every element of the dependent Claims 2-4, 9-14, 21-27, 29-37 and 44-52, for at least the reason that these claims depend from allowable base Claim 1 or 28. Therefore, Applicants respectfully request that Examiner withdraw the rejection of Claims 2-4, 9-14, 21-27, 29-37 and 44-52 and indicate that these claims are allowable over the prior art.

Traversal of Rejections Under 35 U.S.C. § 103(a)

With regards to Claim 53, Applicants respectfully assert that Crowley in view of Nassi or any other reference does not disclose each and every element of Claim 53. As discussed above, the first and second sheath portions disclosed in Crowley bear no resemblance to the first and second medium elements in the present application. Therefore, Applicants respectfully request that Examiner withdraw the rejection of Claim 53 and indicate that this claim is allowable over the prior art.

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With regards to Claims 15 and 38-43, Applicants assert that these claims depend from allowable base Claim 1 or 28. Applicants assert that the various combinations of prior art suggested by Examiner do not teach or disclose each and every element of the dependent Claims 15 and 38-43, for at least the reason that these claims depend from allowable base Claim 1 or 28. Therefore, Applicants respectfully request that Examiner withdraw the rejection of Claims 15 and 38-43 and indicate that these claims are allowable over the prior art.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicants respectfully submit that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, Applicants respectfully request that Examiner indicate that Claims 1-4, 9-11, 13-15 and 21-53 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully

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traverse each of Examiner's rejections and each of Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper reason exists to combine these references and to submit indicia of the non-obviousness of the claimed management system.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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